IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 13046 of 2005

Between:

The Depot Manager,APSRTC, Khammam, Khammam Dist.

..... PETITIONER

AND

1 A.S.Rao, S/o.Venkatramanarsaiah,
Ex.Conductor, C/o.S.Venkateshwar Rao,
H.No.5-11-1193, Pochammakunta, Hanamkonda.
2 The Labour Court, Warangal.

...RESPONDENTS

ORDER:

Heard the learned standing counsel for the petitioner Smt P. Rajani Reddy and Sri P.Sridhar Rao, learned counsel for the first respondent-employee.

The writ petition by the A.P.S.R.T.C through the Depot Manager, Khammam is directed against the Award dated 2nd July, 2001 in I.D.No.105 of 1998.

The claim was laid by the first respondent herein before the Industrial Tribunal-cum-Labour Court, Warangal, under Section 2-A (2) of the Industrial Disputes Act, 1947 challenging an order of removal from service, dated 18.04.1996. When the first respondent was conducting a bus on the route Manuguru to Hyderabad on 19.09.1993, a check was exercised by the Vigilance Officials of the petitioner at Stage No.7. The first respondent is alleged to have issued

tickets to all passengers at Khammam and closed the S.R even before reaching Khammam. Accordingly, on the basis of the check five charges were framed. Charges 1 to 3 related to re-issue of already issued tickets to the passengers; charge No.4 to non-punching of tickets issued to passengers; and charge No.5 to closing the S.R against Stage No.7 without issuing correct tickets. The undisputed factual scenario was that during the course of his duty on the bus on the relevant day, the first respondent suffered severe stomach pain and he was semi-conscious at the time of the check. In fact on account of his severe condition, after the checking officials boarded the bus, the bus was taken to the Government Hospital, Suryapet and thereafter to Khammam hospital, where the first respondent had undergone an emergency operation.

During the domestic enquiry, the Travelling Ticket Inspector deposed that the first respondent could not sign on the passengers statements, which were obtained at the time of the check. It was also elicited from the driver's cross examination that the first respondent herein had fallen unconscious in the bus on account of severe stomach pain. The said witness also deposed that he was threatened by the checking staff that he would be suspended if he did not sign on the passengers' statements and therefore, he signed. In the circumstances, the Labour Court came to the conclusion, at variance with the conclusion in the domestic enquiry, that the first respondent was in an extremely bad state of health and therefore, the mistakes in the punching of tickets or re-issue would have been committed on account of the severe state of health and not consciously or wantonly and accordingly on a re-appreciation of the evidence

and material on record, the Tribunal came to the conclusion that the charges cannot be said to have been established as there was no misconduct involved. Award was accordingly passed directing reinstatement of the conductor with continuity of service, without back-wages from the date of his suspension from service i.e. 15.11.1993 till the date of filing of the claim before the Tribunal/Labour Court i.e. 19.11.1998. By the award, the first respondent was declared entitled to full wages and attendant benefits from the date of filing of the claim i.e. 19.11.1998. This is the award which the petitioner-APSRTC assails in this writ petition.

On a careful perusal of the award of the Labour Court, this Court is satisfied that the Labour Court applied the requisite standards of rational scrutiny and rightly came to the conclusion on a re-appreciation of the evidence on record in the domestic enquiry, that the first respondent herein was in such a severe state of medical distress that he could not be held accountable for any irregularities committed while on duty on the said day and that those irregularities could not tantamount to conscious misconduct.

This Court discerns no infirmity in the exercise of discretion by the Labour Court or in the application of the correct parameters of law, warranting interference in this writ petition.

The writ petition is without merits and is accordingly dismissed. No costs.

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15-09-2005

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